

DIRECTIVE NUMBER 300-01-10

DATE: February 15, 2013

TO: All Kansas Department of Labor Employees

FROM: Lana Gordon, Secretary of Labor

SUBJECT: Overtime/Compensatory Time

Overview

All KDOL employees who occupy a nonexempt position (eligible for overtime) shall be paid in accordance with applicable Kansas Administrative Regulations and the Fair Labor Standards Act (FLSA). As a condition of employment, all eligible employees agree to accept compensatory hours for overtime worked unless monetary payment is specifically authorized. Employees in nonexempt positions covered by the Kansas Organization of State Employees (KOSE) Memorandum of Agreement (MOA) will have overtime and/or compensatory time determined under the provisions of that agreement.

Definitions

- Work Week – The period from 12:01 a.m. Sunday through midnight the following Saturday. Each work week stands alone in determining overtime or figuring rearranged time. Unless otherwise authorized, employees are expected to work five eight hour days.
- Overtime – Any hours, in excess of 40, actually worked during a work week (does not include leave or holiday time). Hours worked in excess of 8 per day do not necessarily constitute overtime hours. An overtime situation exists only when total hours actually worked in a work week exceed 40. Employees in KOSE-covered positions are governed by the KOSE MOA.
- Suffered or Permitted – This applies to a situation in which an employee performs work not authorized by management, does not claim the hours and does not get compensated for the hours worked. If management knows or should have known the work was performed and ignores it, the work has been “suffered and permitted.” Work not authorized but “suffered and permitted” is work time and must be compensated.

Procedure

- Rearranged Time - When an employee eligible for overtime works additional time that could result in overtime hours, the employee will be given equivalent time off, on an hour-for-hour basis, within the work week in which the additional time is worked if this arrangement is not detrimental to agency operations.
- Compensatory Time – If it is not possible to adjust the employee’s work week for additional hours worked in that week (rearranged time), compensatory time off will be granted at a later date at the rate of one and one-half hours for each hour of overtime worked.
- Nonexempt employees traveling on agency business must rearrange time whenever possible to avoid the accumulation of compensatory time. Assistance in figuring rearranged time is available from HR staff.

- Employees should use compensatory time within 6 months of earning it and should request the use of earned compensatory time before using either accrued sick or vacation leave hours.
- The use of compensatory time off should be requested using the standard Leave Request form and approved by the employee's supervisor.
- Official Overtime - All overtime hours worked must be **approved in advance** by the Division Director, with the permission of the Secretary. An email authorizing the overtime hours should be forwarded to Kyle Williams, HR Director, for payroll reporting purposes. Overtime hours worked without prior permission will be compensated with rearranged time or compensatory time; however the employee may be subject to disciplinary action unless going into an overtime situation was unavoidable because of extenuating circumstance.
- All overtime must be reported—both overtime for which the employee is to receive compensatory time off, as well as that for which the employee will be paid. Overtime hours worked, even if hours were not authorized in advance, must be accurately reported.
- Timesheets for nonexempt employees must reflect the actual hours worked each day. Even if an employee works a rearranged work week, the actual hours worked each day must be accurately recorded.

References: K.A.R. 1-5-24; Fair Labor Standards Act (FLSA); KOSE MOA

Replaces: Directive 300-02-06 (Overtime/Compensatory Time Policy)

Questions: Contact Kyle Williams at Kyle.Williams@dol.ks.gov or 785-296-5000 ext. 2565.

Lana Gordon, Secretary of Labor

Signature on file